

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>DERRICK D. ROBINSON,</b>	:	<b>Case No. 1:04CV1370</b>
	:	
<b>Plaintiffs,</b>	:	<b>JUDGE KATHLEEN O'MALLEY</b>
	:	
<b>v.</b>	:	
	:	<b><u>OPINION AND ORDER</u></b>
<b>CITY OF WARRENSVILLE POLICE, DEPARTMENT, <i>et al.</i>,</b>	:	
	:	
<b>Defendants.</b>	:	

On July 20, 2004, Derrick D. Robinson filed this civil rights action against the City of Warrensville Police Department and three John Doe police officers.<sup>1</sup> In sum, Robinson alleges police misconduct in violation of 42 U.S.C. § 1983. He alleges that the misconduct occurred on December 6, 2002.

On September 9, 2004, summons were issued for service of process upon all four Defendants (Doc. 14).<sup>2</sup> On December 22, 2004 the U.S. Marshals filed a return of service indicating that service had not been perfected and that the address Robinson provided for service was incorrect. Review of the docket reflects

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<sup>1</sup> The Complaint (Doc. 1) identifies the officers as the "Arresting officer," "1<sup>st</sup> Back Up Officer," and "2<sup>nd</sup> Back Up Officer."

<sup>2</sup> Robinson listed *4301 Warrensville Ct. Rd., Warrensville, Ohio 44122* as the service address for all four Defendants.

that, to date, Robinson has neither identified any of the police officer Defendants nor perfected service upon any Defendant.

Section 1983 claims are subject to a two-year statute of limitations. *Browning v. Pendleton*, 869 F.2d 989 (6th Cir. 1989). Accordingly, the limitations period for Robinson's claims expired on December 6, 2004. Though Robinson timely filed his Complaint on July 20, 2004, as noted above, he has failed to identify any of the John Doe Defendants named therein before expiration of the December 6, 2004 deadline. Accordingly, Robinson's claims against the three John Doe Defendants must be **DISMISSED**.

The Warrensville Police Department is not *sui juris* and, therefore, cannot be sued. *See e.g., Radvansky v. City of Olmsted Falls*, 395 F.3d 291, 301 (6th Cir. 2005). Accordingly, Robinson's claims against that Defendant must also be **DISMISSED**.

For the foregoing reasons, and because Robinson failed to perfect service of process upon the Defendants within 120 days of the filing of his Complaint as required by Rule 4 of the Federal Rules of Civil Procedure, Robinson's claims against the Warrensville Police Department and the three unidentified police officer Defendants are **DISMISSED with prejudice**.

**IT IS SO ORDERED.**

s/Kathleen M. O'Malley  
**KATHLEEN McDONALD O'MALLEY**  
**UNITED STATES DISTRICT JUDGE**

**Dated:** April 29, 2005